

REMARKS

In light of the above amendments and remarks to follow, reconsideration and allowance of this application are respectfully requested.

Claims 1, 3-4, 41 and 45 were amended. Claims 2, 43 and 51 were canceled, without prejudice. Claims 1, 3-5, 41-42, 45-46, 48-50 and 52 are pending.

Claims 1 and 4 were amended to clarify their wording, such that the rejection under 35 U.S.C. § 112, second paragraph, has been overcome and should be withdrawn.

Claims 1-5, 41-43, 45-46 and 48-52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Stefik et al. (U.S. Patent 6,233,684; "Stefik I") in view of Stefik et al. (U.S. Patent 5,629,980; "Stefik II").

Amended independent claim 1 requires, in relevant part, "a controller configured to automatically send the use history information . . . when an accumulation of uses of the digital data reaches a preset value" and that "the receiving unit is inhibited from one of the use of and an operation of the use permission data, while the controller is sending the use history information to the external device." (emphasis added) (Independent claims 4, 41 and 45 contain similar limitations). Accordingly, the claimed invention sets a preset value for when the accumulated use history information is sent. Furthermore, the claimed invention "inhibits" at least one of the use of and an operation of use permission data at the receiving unit, while history information (e.g., a reproduction log) is actually being sent by the controller, to advantageously "prevent[] the occurrence of a situation such that" a history of use information, such as the history of the decoding or reproduction of digital data, is not in the stored use history

information. (See specification, for example, at pg. 52, ln. 23-pg. 53, ln. 20).

The Examiner admitted that Stefik I does not disclose sending use history information when an accumulation of uses of the digital data reaches a preset value, as required by the claimed invention. Stefik II does not cure the deficiencies of Stefik I with regard to the requirements of the claimed invention, as amended. In contrast to the Examiner's statements, the applied portions of Stefik II appear to describe usage rights for a digital work and, in particular, determining the status of a digital work "ticket," which status determines whether the digital work can be copied or transferred. (See Col. 23, ln. 10-21). Nowhere do the applied portions of Stefik II appear to disclose or suggest that the sending of use history information may inhibit a receiving unit configured to receive and use digital data and, in particular, that "while the controller is sending the use history information" the receiving unit is "inhibited" from one of the use of and an operation of the use permission data, as required by the claimed invention.

Accordingly, the combination of the applied portions of Stefik I and Stefik II does not obviate the claimed invention. Thus, Stefik I and Stefik II fail to meet all of the limitations of the present claims and the rejected claims should now be allowed.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: December 4, 2008

Respectfully submitted

By 

Davy E. Zoneraich

Registration No.: 37,267

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicant